

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 13TH SEPTEMBER 2007 / 22ND BHADRA 1929

WP(C).No. 27337 of 2007(D)

OS.138/2004 of MUNSIFF COURT, HOSDRUG
AA.7/2005 of LAND TRIBUNAL, KANNUR
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PETITIONER:

Thokkanom Thambai, aged 59 years, W/o. late
V.V.Chandukukty, Valiyavalappu, Thannot, Chithari Village,
P.O. Ravaneshwaram, Hosdurg Taluk, Kasaragod District.

BY ADV. SRI.T.K.VIPINDAS

RESPONDENTS:

1. Pulikodan Muthu, S/o. Late Makkakodan Ambu,
Aladukkam-Thannot, Chithari Village, P.O. Ravaneshwaram,
Hosdurg Taluk, Kasaragod District.
2. Erole Kunhiraman, S/o. Pulikodan Muthu, Aladukkan-Thannot,
Chithari Village, P.O. Ravaneshwaram, Hosdurg Taluk,
Kasaragod District.
3. The Appellate Authority (Land Reforms), Kannur, Kannur P.O.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 13/9/2007, THE COURT ON COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

M.N.Krishnan, J.

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W.P(C).No.27337 of 2007

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Dated this the 13th day of September, 2007.

JUDGMENT

This Writ Petition is preferred for a direction to the third respondent to dispose of Ext.P4 appeal and to issue a writ of mandamus directing the Munsiff's Court, Hosdurg to defer the trial of O.S.No.138 of 2004 till the disposal of Ext.P4 appeal. It is submitted by the learned counsel for the writ petitioner that the opposite party has obtained a certificate of purchase without him on the party array and without any individual notice to him. But still he had chosen to prefer an appeal and that is Ext.P4, which is pending before the Appellate Authority. Learned counsel would submit that the trial of the civil case be deferred till a decision is taken on Ext.P4 appeal.

2. It is well settled proposition of law now that when a person is not a party to the proceeding and no individual notice is served on him under Section 72F(3) of the Kerala Land Reforms Act, he may not be strictly bound by the said decision. Now the dispute between the parties is who is having better title to the property. Therefore, the trial court has to consider the impact of the certificate of purchase issued by the Land Tribunal in favour of the respondent and also the other documents of title and find

out who is having better title. So, just because an appeal is pending, the suit need not be stayed. It is also to be stated that after the appeal, there is a revision provided under Section 103 of the Kerala Land Reforms Act and so, the consequence will be to postpone the trial of the civil case, which is not advisable.

3. Therefore, the Writ Petition is disposed of, at any rate, with a direction to the third respondent to dispose of the appeal, Ext.P4, within a period of two months from the date of receipt of a copy of this judgment and the learned Munsiff is directed to take into consideration the pendency of the appeal and the legal validity of the certificate of purchase issued in favour of the respondent which is obtained without the present writ petitioner on the party array, etc. and dispose of the matter in accordance with law.

M.N.Krishnan,
Judge.